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I hereby certify that this correspondence is being transmitted herewith via the USPTO's Electronic Filing System (EFS-Web) on the date indicated below and is addressed to: MAIL STOP: AMENDMENT, Commissioner for Patents, P O Box 1450, Alexandria, VA 22313-1450.

Date of Submission: *May 8, 2007*

Selena Whitaker-Paquet

Attorney Docket No. 13395.1005
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Alicia Jennifer Hafeeza EL HAJ and Jon Paul DOBSON**

Group Art Unit: 1647

Application No. : 10/518,956

Filed : August 10, 2005

For : **METHOD OF MAGNETICALLY MANIPULATING A CELL WITH MAGNETIZABLE PARTICLES**

Examiner : Ian D. Dang

DECLARATION OF DR. DAVID GARNETT

MAIL STOP: AMENDMENT
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

The undersigned, Dr. David Garnett, hereby declares:

1. I am an associate with the firm of Harrison Goddard Foote, the UK and European counsel for the assignee of the subject patent application.

2. Following receipt of the Restriction Requirement mailed on March 8, 2007, I contacted Michael J Hellrigel, Senior Editor, IEEE Publications, to ascertain the publication date of the Cartmell et al. reference (IEEE Transactions on NanoBioScience, Vol. 1, No. 2, June 2002, page 92). In an e-mail dated March 19, 2007, Dr. Hellrigel stated that the March 2002 issue of IEEE Transactions on NanoBioScience was published on 8 March 2003. In an e-mail dated 18 April 2007, Ms. Jacqueline Hansson of the Intellectual Property Rights Office of the IEEE confirmed that the March 2002 issue was first published in print form on or about

8 March 2003. Copies of the e-mail communications with Dr. Hellrigel and Ms. Hansson attached hereto as Exhibits A and B, respectively.

3. In a telephone conversation with me on May 3 2007, Ms. Hansson confirmed the contents of her e-mail and stated that she had no knowledge of any earlier electronic publication of the March 2002 issue of IEEE Transactions on NanoBioScience.

4. The undersigned further declares that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful, false statements, and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 35 of the United States Code.


David Garnett
David Garnett, D.Phil.

8 May 2007
Date

EXHIBIT A

From: Michael Hellrigel [mhell@ieee.org]
Sent: Monday, March 19, 2007 12:01 PM
To: dgarnett@hgfp.com
Cc: mhell@andromeda.ieee.org
Subject: Fwd: Publication date of IEEE Transactions on Nanobioscience Vol 1, No. 2

Dear Dr. Garnett,

The March 2002 issue of IEEE Transactions on NanoBioScience was published on 3/8/2003.

Best regards,
Mike

----- Begin Forwarded Message -----

>X-Sieve: CMU Sieve 2.2
>From: "David Garnett" <dgarnett@hgfp.com>
>To: <carmel@dist.unige.it>
>Subject: Publication date of IEEE Transactions on Nanobioscience Vol 1, No. 2
>
>Date: Wed, 14 Mar 2007 12:33:34 -0000
>X-Mailer: Microsoft Office Outlook, Build 11.0.5510
>thread-index: AcdmNPsslxPsRbogTuawmx6hFdHmsA==
>X-PMX-Version: 5.3.1.294258, Antispam-Engine: 2.5.0.283055,
>Antispam-Data: 2007.3.14.52433
>X-Virus-Scanned: by amavisd-new at unige.it (mbox2)
>
>Dear Professor Ruggiero
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>I am sorry to trouble you, but wonder if you could kindly help me.
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>David Garnett
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>prefix = o ns = "urn:schemas-microsoft-com:office:office" />

>
>Dr David Garnett
>Harrison Goddard Foote
>
><?xml:namespace prefix = st1 ns =
>"urn:schemas-microsoft-com:office:smarttags" />Orlando House 11c
>Compstall Road Marple Bridge
>SK6 5HH
>
>Tel: +44 (0) 161 427 7005
>Fax +44 (0) 161 427 7026
>Email: dgarnett@hgfp.com
>Web: www.hgfp.com
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>

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Editor-in-Chief, IEEE T-NB
DIST University of Genoa
Via Opera Pia 13
16145 Genoa
Italy

Tel. +39 010 353 29 91

Fax.+39 010 353 21 54

----- End Forwarded Message -----

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Senior Editor | Fax: +1 732 562 0545
IEEE Periodicals | e-mail: m.hellrigel@ieee.org
445 Hoes Lane
Piscataway, NJ 08854

EXHIBIT B

From: j.hansson@ieee.org
Sent: Wednesday, April 18, 2007 6:57 AM
To: dgarnett@hgfp.com
Cc: w.hagen@ieee.org; m.hellrigel@ieee.org
Subject: Re: Fw: Publication date of IEEE Transactions on Nanobioscience Vol 1, No. 2

Dear David Garnett:

As you can see your correspondence below was forwarded to this office for a response. Actually, Mike Hellrigel was correct when he gave you the publication date of 8 March 2003. Our records verify that the described IEEE publication was first published by the IEEE in print form on or about 8 March 2003.

As a matter of policy, the IEEE will attempt, to the extent reasonably possible, to respond to such requests based on its available records. However, the IEEE makes no representation that its records accurately reflect first publication date information for legal purposes, and it is the duty of the individuals requesting such information to independently verify such information.

Please contact the undersigned if you have any additional questions.

Sincerely,

Jacqueline Hansson
IEEE Intellectual Property Rights Office
445 Hoes Lane
Piscataway, NJ 08855-1331 USA
+1 732 562 3828 (phone)
+1 732 562 1746 (fax)
e-mail: j.hansson@ieee.org

William
Hagen/PUBS/STAFF/
US/IEEE
04/17/2007 05:03
PM

To Jacqueline
Hansson/PUBS/STAFF/US/IEEE@IEEE
cc
Subject
Fw: Publication date of IEEE
Transactions on Nanobioscience Vol
1, No. 2

J,

Would you please prepare and send the usual publication date letter for/to Dr David Garnett (see below)? Please copy me and Mike. Thanks.

For now,
BH

Bill Hagen, Manager
IEEE Intellectual Property Rights
445 Hoes Lane
Piscataway, NJ 08855
(732) 562-3966
<http://www.ieee.org/copyright>

----- Forwarded by William Hagen/PUBS/STAFF/US/IEEE on 04/17/2007 04:58 PM

Michael Hellrigel
<mhell@ieee.org>

04/17/2007 07:11
AM

Please respond to
Michael Hellrigel
<mhell@ieee.org>

To w.hagen@ieee.org
cc mhell@andromeda.ieee.org,
jcichock@andromeda.ieee.org
Subject RE: Publication date of IEEE
Transactions on Nanobioscience Vol
1, No. 2

Hi Bill,

I received the following regarding the publication date of the first issue of IEEE Transactions on NanoBioScience. Please follow up with this author. Let me know if there is anything I can do.

Thanks,
Mike

----- Begin Forwarded Message -----

From: "David Garnett" <dgarnett@hgfp.com>
To: "'Michael Hellrigel'" <mhell@ieee.org>
Subject: RE: Publication date of IEEE Transactions on Nanobioscience Vol 1, No.
2
Date: Tue, 17 Apr 2007 10:49:05 +0100
MIME-Version: 1.0
X-MimeOLE: Produced By Microsoft MimeOLE V6.00.2900.2180
thread-index: AcdqWS1rPhwOWl+xQb66bFb8+p14/AAgvFqg
X-Originating-IP: [80.4.177.229]
X-Spam-Score: undef - spam scanning disabled
X-IEEE-UCE-Filter-Settings: 90_OPT_OUT
X-IEEE-UCE-Stats-ID: Bayes signature not available
X-Scanned-By: IEEE UCE Filtering Service ([uce . ieee . org](mailto:uce.ieee.org)) on
140.98.193.229

Dear Mike

Sorry to be a nuisance, but I have to file a response to the US Patent Office in which depends on being able to show that the March 2002 issue of IEEE Transactions on NanoBioScience was published much later than the cover date would suggest. I really would be very grateful if you could repeat the content of your email below in the form of a headed letter.

Best wishes

David

Dear Mike

Thanks very much for your reply, which, from my point of view, was extremely helpful!

I'm sorry to trouble you further, but I should be extremely grateful if you could very briefly repeat the content of your note below in a letter. It is very likely that I shall have to provide some evidence to various authorities (the US Patent and Trademark Office and the European Patent Office, at least) of the publication date. A letter on IEEE headed paper and giving your position after your signature (just as in your email signature below) would be very helpful as evidence.

Best wishes

David

Dr David Garnett
Harrison Goddard Foote

Orlando House
11c Compstall Road
Marple Bridge
SK6 5HH

Tel: +44 (0) 161 427 7005
Fax +44 (0) 161 427 7026
Email: dgarnett@hgfp.com
Web: www.hgfp.com

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----Original Message----

From: Michael Hellrigel [mailto:mhell@ieee.org]
Sent: 19 March 2007 19:01
To: dgarnett@hgfp.com

Cc: mhell@andromeda.ieee.org
Subject: Fwd: Publication date of IEEE Transactions on Nanobioscience Vol 1, No. 2

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>Date: Wed, 14 Mar 2007 12:33:34 -0000
>X-Mailer: Microsoft Office Outlook, Build 11.0.5510
>thread-index: AcdmNPsslxPsRbogTuawmx6hFdHmsA==
>X-PMX-Version: 5.3.1.294258, Antispam-Engine: 2.5.0.283055,
>Antispam-Data: 2007.3.14.52433
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16145 Genoa
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Fax.+39 010 353 21 54

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>thread-index: AcdmNPsslxPsRbogTuawmx6hFdHmsA==
>X-PMX-Version: 5.3.1.294258, Antispam-Engine: 2.5.0.283055,
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